

THE HONORABLE EDWARD F. SHEA

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

ISAAC BUTTS,

Plaintiff,

v.

COLUMBIA ENERGY &
ENVIRONMENTAL SERVICES, INC.,

Defendant.

Case No. 2:13-cv-05060-EFS

STIPULATED (~~PROPOSED~~)
PROTECTIVE ORDER

I. PROTECTIVE ORDER

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3 **1. Scope and Purpose of This Order:** This Protective Order shall
4 govern the designation and handling of protected documents produced by any
5 Party in discovery in this litigation, whether by voluntary production or disclosure
6 or in response to any formal discovery procedure, including designation and
7 handling of nonpublic information of a confidential nature. This Protective Order
8 does not affect any Party's obligations under the Federal Rules of Civil Procedure
9 to produce documents as required by the rules of discovery or an order of the
10 Court. The purpose of this Protective Order is to facilitate the handling of
11 nonpublic information of a confidential or proprietary nature. If a designating
12 Party files a "confidential" document (defined below) in court and does not
13 attempt to file it under seal, or if a document is otherwise already part of the
14 public record as of the entry of this Order, the document(s) in question will not be
15 subject to this Protective Order. The mere filing of the "confidential" document
16 by the non-designating Party does not remove the document from the protection
17 of this order. Although it is anticipated that the Parties filing documents will
18 comply with the terms of this Protective Order, if a non-designating Party files a
19 document marked "confidential" by the non-filing Party, the non-filing Party may
20 seek appropriate relief from the Court to ensure protection under this order.
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1 **2. “Confidential Material” includes:**

2 **a.** Personnel records pertaining to any current or former
3 employee of Defendant Columbia Energy & Environmental Services, Inc.
4 (hereafter “Columbia Energy”) that contain personal, payroll or financial
5 information. Good cause exists to protect the privacy rights of Columbia Energy’s
6 current and former employees who are not Parties to this litigation. These files
7 include these individuals’ personal identifying information and financial account
8 information. No public interest is served by requiring public disclosure of an
9 individual’s private and personal information in a matter in which he or she is not
10 a Party.
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12 **b.** Good cause exists to protect Columbia Energy’s confidential
13 and proprietary business information, which provides it with a business advantage
14 over its competitors. To the extent the documents relate to matters that Columbia
15 Energy takes significant steps to protect in its daily operations, including through
16 the use of non-disclosure and confidentiality agreements with its employees, such
17 information can be designated as confidential. No public interest is served by
18 requiring Columbia Energy to disclose information it strives to maintain
19 confidential and proprietary in its business operations and which would harm its
20 business operations if disclosed.
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1 c. Medical records and healthcare information pertaining to
 2 Plaintiff to the extent the information is discoverable. Good cause exists to protect
 3 the highly sensitive and private nature of Plaintiff's medical records from non-
 4 Party access, and how that treatment affected him to the extent such information
 5 even exists. No public interest is served by making any medical records of Isaac
 6 Butts publicly available.

8 d. Financial records of the Parties, including payroll records and
 9 other records reflecting wealth or earnings. Good cause exists to protect private
 10 financial records from non-Party access. No public interest is served by these
 11 records publicly available.

12 **3. Standard for Protected Documents:** Any person who is required
 13 to produce documents or information in discovery in this litigation may designate
 14 material produced as a protected document(s) pursuant to this Protective Order.
 15 All designations must be based on the good faith belief that the information
 16 constitutes "Confidential Material" as defined above.

18 **4. Protected Documents:** Protected document(s) are those that contain
 19 "Confidential Material" as defined above, and are marked "CONFIDENTIAL" by
 20 any Party. These documents, referred to hereinafter as "protected documents,"
 21 will be covered by this Protective Order and will be used only for the purposes of
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1 this case, and will not be used by any Party or his or her counsel for any purpose
2 unrelated to this case.

3 **5. Designating Protected Documents:**

4 **a. Marking Protected Documents:** Protected documents shall
5 be designated as confidential by affixing to them the legend “CONFIDENTIAL”
6 in a size and location that makes the designation readily apparent, preferably in
7 the lower right hand corner. Any records received from third parties by stipulation
8 or through the discovery provisions of the Federal Rules of Civil Procedure that
9 would in the good faith belief of Counsel constitute protected material can be
10 designated by a Party as “Confidential Materials” as defined herein if such
11 request is made reasonably promptly by letter.
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13 **b. Designating Deposition Testimony:** Any Party who has
14 designated a document as protected pursuant to Paragraph 2 of this Protective
15 Order may designate testimony concerning that document as “Confidential
16 Information” as a deposition by making a statement to that effect on the record at
17 the deposition or other proceeding. When Confidential Information is designated
18 on the record at a deposition, the Party claiming the testimony is confidential shall
19 make arrangements with the court reporter taking and transcribing such
20 proceeding to label each page containing the testimony with the designation
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1 “Confidential” and to separately bind such pages as “Confidential.” Absent
2 stipulation of the Parties on the record at the deposition, it is subject to dispute as
3 set forth in Paragraph 9.

4 **c. Subsequent Designation:** If a Party discovers that, through
5 inadvertence, documents containing Confidential Information have been provided
6 to the opposing Party without being properly designated under this Order, the
7 producing Party shall promptly notify the receiving Party in writing of the error.
8 The notification shall include an identification of the documents or information
9 (by control number or some other specific form of identification), and the
10 receiving Party shall affix a stamp identifying each document or item of
11 information so identified as “CONFIDENTIAL” unless the parties agree that
12 some other procedure for remedying the inadvertence is more appropriate under
13 the circumstances.
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16 **6. Maintaining Designated Protected Documents:** Any protected
17 document must be maintained in a manner reasonably calculated to preserve its
18 confidentiality.
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1 **7. Disclosure of Protected Documents:**

2 **a.** Except as set forth herein or by any subsequent court order, no
3 protected documents shall be delivered, exhibited, or disclosed to any persons
4 unless done in a manner in compliances with this Protective Order.

5 **b.** The Parties' counsel shall require all persons, except those
6 referred to in paragraph 7(c)(i), (ii), (iii), (v), (vi), (viii), and (ix), before being
7 given access to any protected document, to read and agree to be bound by this
8 Protective Order by endorsing the certification attached as Exhibit A. Counsel
9 shall retain this certification.

10 **c.** Protected documents may be delivered, exhibited, or disclosed
11 to the following persons subject to the limitations of this Protective Order:

12 **(i)** Counsel representing the named Parties in this case and any
13 paralegal, clerical, or other employee of such counsel assisting in the prosecution
14 or defense of this litigation;

15 **(ii)** Any copying services hired by counsel to copy documents
16 in bulk;

17 **(iii)** The Court or any Court personnel;

1 (iv) Any person testifying, attending a deposition, designated
2 as a witness, or scheduled for a deposition who is not a Party or employee of a
3 Party;

4 (v) Any person identified as having authored or having
5 previously received the protected document(s);
6

7 (vi) The Parties and their client representatives, insurance
8 carriers, and/or counsel for their insurance carriers for any purpose in this
9 litigation;

10 (vii) Current or former employees or agents that a Party deems
11 necessary to the presentation or defense of claims in this litigation;
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13 (viii) A Mediator(s) retained by the Parties; or

14 (ix) Consulting experts or expert witnesses whose review a
15 Party deems necessary to the presentation or defense of claims in this litigation.

16 **d.** A Party that files with the Court materials designated as
17 Confidential Information under Section 2 or any pleading or memorandum
18 purporting to reproduce such information, and who seeks to have the record
19 containing such information sealed, shall submit to the Court a motion to seal,
20 pursuant to Local Rule 7.1.
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1 e. This Protective Order does not apply to information obtained
2 by or made available to any such person by means other than the discovery
3 provisions of the Federal Rules of Civil Procedure, and except for good cause
4 shown, such information need not be filed under seal when submitted to the
5 Court.
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7 **8. Producing Party's Use of Protected Documents:** Nothing in this
8 Protective Order limits a producing Party's use of its own documents or
9 documents obtained through means other than discovery requests or subpoenas in
10 this litigation. Such disclosures shall not affect any other documents that are
11 subject to confidential designation made under the terms of this Protective Order.
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13 **9. Disputes as to Confidentiality Designation:**

14 **a. Meet and Confer Requirement:** The Parties agree to
15 designate information as "Confidential" on a good faith basis and not for purposes
16 or harassing the receiving Party's access to information concerning the lawsuit. If
17 any Party believes that a document, tangible item or other information that has
18 been designated as Confidential is not entitled to be treated as Confidential, the
19 Party will notify the designating Party of its objection to the Confidential
20 designation. The Parties shall meet and confer in an attempt to reach an agreement
21 regarding the confidential status of the document, tangible item or information
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1 within five (5) business days after the objecting Party has provided written notice
2 to the designating Party of its objection.

3 **b. Motion for Protective Order:** If the objection is not resolved,
4 and if the objecting Party notifies the designating Party in writing of its intent to
5 disclose the information, then the designating Party shall have five (5) business
6 days after receipt of such written notification to file a motion to have the
7 document or information treated as Confidential; if such motion is not timely
8 filed, then the objecting Party may, for purposes of this case only, make the
9 indicated disclosure.
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11 **c. Status Pending Resolution of Dispute:** Any disputed
12 document or other material must be treated as a protected document under this
13 Protective Order until entry of a Court order ruling otherwise.
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15 **10. Rights of Parties:** This Protective Order is without prejudice to the
16 right of any Party to apply to the court for any further protective order relating to
17 any confidential information or for an order permitting disclosure of any
18 confidential information beyond the terms of this Protective Order.
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1 DATED this 3rd day of October, 2013.

2
3 s/ Edward F. Shea

4 THE HONORABLE EDWARD F. SHEA
5 United States District Court Judge
6

7 PRESENTED BY:

8 By: s/ Keller W. Allen
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Attorneys for Plaintiff Isaac Butts

EXHIBIT A

I, _____, certify that I have received and read a copy of the Protective Order in *Isaac Butts v. Columbia Energy & Environmental Services, Inc.*, United States District Court, Eastern District of Washington, 2:13-cv-05060-EFS. I agree to be bound by it. I further understand that any protected document and any notes, memoranda or other form of information derived from it, may not be used, copied or disclosed by me to anyone else except in strict accordance with the Stipulated Protective Order and then only for the prosecution and defense of this litigation.

DATED this _____ day of _____, 20____, in _____, Washington.

CERTIFICATE OF SERVICE

The undersigned hereby declares under penalty of perjury under the laws of the State of Washington that, on the below date, I mailed or caused delivery and/or electronically filed a true copy of this document, which will send notification of such filing, to the following persons:

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Attorney for Defendant Columbia Energy & Environmental Services, Inc.

DATED this 18th day of September, 2013, at Seattle, Washington.


LISA MCCREENERY

Paralegal